APPEAL NO. 040877
FILED JUNE 7, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). A contested case hearing (CCH) was held on April 1, 2004. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable repetitive trauma injury; that the date of injury is _____; and that the respondent (carrier) is not relieved from liability under Section 409.002 because of the claimant's failure to timely notify her employer pursuant to Section 409.001. The claimant appealed the injury determination, arguing that she met her burden of proof and established by testimony and medical evidence introduced at the CCH that she injured herself while performing her job duties. The carrier responded, urging affirmance of the disputed determination. The determinations of date of injury and timely notice were not appealed and have become final pursuant to Section 410.169.

DECISION

Affirmed.

We note that although the claimant appeals a disability determination no disability issue was heard at the CCH and no determination regarding disability was made.

The claimant had the burden to prove that she sustained a compensable injury. The claimant claimed that she sustained a repetitive trauma injury as a result of performing her work activities for the employer. The claimant testified that she had been previously diagnosed with carpal tunnel syndrome in 2002 and contended that she experienced an increase in her left upper extremity symptoms on _____, as a result of repetitive work activities. The record reflects that the claimant returned to work April 15, 2003, after a right carpal tunnel release had been performed. Section 401.011(34) provides that an occupational disease includes a repetitive trauma injury, which is defined in Section 401.011(36). The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701, 702 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286, 290 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Taylor v. Lewis, 553 S.W.2d 153, 161 (Tex. Civ. App.-Amarillo 1977, writ ref'd n.r.e.); Aetna Insurance Co. v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). We conclude that the hearing officer's determination on the disputed issue is supported by sufficient evidence and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong

and unjust. Thus, no sound basis exists for us to disturb that determination on appeal. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **OLD REPUBLIC INSURANCE COMPANY** and the name and address of its registered agent for service of process is

CORPORATION SERVICE COMPANY
701 BRAZOS STREET, SUITE 1050
AUSTIN, TEXAS 78701.

_____
Margaret Turner
Appeals Judge

CONCUR:

_____
Elaine M. Chaney
Appeals Judge

_____
Chris Cowan
Appeals Judge